

AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 671**

---

**Introduced by Senator Runner**

February 27, 2009

---

An act to amend ~~Section~~ *Sections 51203 and 51283.5* of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 671, as amended, Runner. Agricultural land: valuation.

Existing law requires the county assessor to assess current fair market valuations to determine the cancellation fee for removing land from a Williamson Act contract. Existing law permits the Department of Conservation or the landowner, if either believes that the current fair market valuations are inaccurate, to request formal review from the county assessor in the county considering the cancellation petition. Existing law requires the county assessor to formally review the valuation upon receiving a request for formal review if he or she determines that additional information submitted by the requesting party may have a material effect on the valuation of the property.

~~This bill would instead require the Department of Conservation to obtain a fee appraisal to determine the current fair market value of the land, and would authorize the county assessor, upon request of the department or the landowner, to provide information to the department to assist in the determination of value. The bill would require the fee appraiser to, upon request, formally review the valuation, and at the conclusion of the formal review, send the valuation to the department, the landowner, and the board or council considering the petition to cancel the contract.~~

*This bill would instead authorize the department or the landowner to hire an independent fee appraiser to obtain an independent fee appraisal within 45 days of receipt of the assessor's appraisal. The bill would also require the board or council, if the department and the landowner cannot agree on which valuation is correct, to hire or appoint a mediator to make the final determination. The bill would make other conforming changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 51203 of the Government Code is  
2     amended to read:  
3     51203. (a) The assessor shall determine the current fair market  
4     value of the land as if it were free of the contractual restriction  
5     pursuant to Section 51283. The Department of Conservation or  
6     the landowner, also referred to in this section as “parties,” may  
7     provide information to assist the assessor to determine the value.  
8     Any information provided to the assessor shall be served on the  
9     other party, unless the information was provided at the request of  
10    the assessor, and would be confidential under law if required of  
11    an assessee.  
12    (b) Within 45 days of receiving the assessor's notice pursuant  
13    to subdivision (a) of Section 51283 or 51283.4, if the Department  
14    of Conservation or the landowner believes that the current fair  
15    market valuation certified pursuant to subdivision (b) of Section  
16    51283 or Section 51283.4 is not accurate, the department or the  
17    landowner may request formal review from the county assessor  
18    in the county considering the petition to cancel the contract. The  
19    department or the landowner shall submit to the assessor and the  
20    other party the reasons for believing the valuation is not accurate  
21    and the additional information the requesting party believes may  
22    substantiate a recalculation of the property valuation. The assessor  
23    may recover his or her reasonable costs of the formal review from  
24    the party requesting the review, and may provide an estimate of  
25    those costs to the requesting party. The recovery of these costs  
26    from the department may be deducted by the city or county from  
27    the cancellation fees received pursuant to this chapter prior to  
28    transmittal to the Controller for deposit in the Soil Conservation

1 ~~Fund~~ hire a fee appraiser to complete an independent fee appraisal,  
2 and notify the assessor in writing that the department or landowner  
3 has hired the fee appraiser.

4 (1) If ~~no request is made~~ notice of a challenge of the initial  
5 valuation is submitted to the assessor within 45 days of receiving  
6 notice by certified mail of the valuation, the assessor's valuation  
7 shall be used to calculate the fee.

8 (2) ~~Upon receiving a request for formal review, the assessor~~  
9 ~~shall formally review his or her valuation if, based on the~~  
10 ~~determination of the assessor, the information may have a material~~  
11 ~~effect on valuation of the property. The assessor shall notify the~~  
12 ~~parties that the formal review is being undertaken and that~~  
13 ~~information to aid the assessor's review shall be submitted within~~  
14 ~~30 days of the date of the notice to the parties. Any information~~  
15 ~~submitted to the assessor shall be served on the other party who~~  
16 ~~shall have 30 days to respond to that information to the assessor.~~  
17 ~~If the response to the assessor contains new information, the party~~  
18 ~~receiving that response shall have 20 days to respond to the~~  
19 ~~assessor as to the new information. All submittals and responses~~  
20 ~~to the assessor shall be served on the other party by personal service~~  
21 ~~or an affidavit of mailing. The assessor shall avoid ex parte contacts~~  
22 ~~during the formal review and shall report any such contacts to the~~  
23 ~~department and the landowner at the same time the review is~~  
24 ~~complete. The assessor shall complete the review no later than 120~~  
25 ~~days of receiving the request.~~

26 (3) ~~At the conclusion of the formal review, the assessor shall~~  
27 ~~either revise the cancellation valuation or determine that the~~  
28 ~~original cancellation valuation is accurate. The assessor shall send~~  
29 ~~the revised valuation or notice of the determination that the~~  
30 ~~valuation is accurate to the department, the landowner, and the~~  
31 ~~board or council considering the petition to cancel the contract.~~  
32 ~~The assessor shall include a brief narrative of what consideration~~  
33 ~~was given to the items of information and responses directly~~  
34 ~~relating to the cancellation value submitted by the parties. The~~  
35 ~~assessor shall give no consideration to a party's information or~~  
36 ~~response that was not served on the other party. If the assessor~~  
37 ~~denies a formal review, a brief narrative shall be provided to the~~  
38 ~~parties indicating the basis for the denial, if requested.~~

1 (2) *If a challenge to the valuation is made, the challenging party*  
2 *shall, within 30 days of notifying the assessor of the challenge,*  
3 *provide the independent valuation to the assessor.*

4 (3) *If the department and the landowner cannot agree on which*  
5 *valuation is correct, the board or council considering the petition*  
6 *to cancel the contract shall hire or appoint a mediator to make*  
7 *the final determination. At least 30 calendar days prior to*  
8 *consideration by the board or council, the assessor shall provide*  
9 *the board or council a copy of the original valuation and any*  
10 *independent valuations the assessor has received. The mediator's*  
11 *final determination of value shall control.*

12 (c) For purposes of this section, the valuation date of any revised  
13 valuation pursuant to formal review or following judicial challenge  
14 shall remain the date of the assessor's initial valuation, or his or  
15 her initial recomputation pursuant to Section 51283.4. For purposes  
16 of cancellation fee calculation in a tentative cancellation as  
17 provided in Section 51283, or in a recomputation for final  
18 cancellation as provided in Section 51283.4, a cancellation value  
19 shall be considered current for one year after its determination and  
20 certification by the assessor.

21 (d) Notwithstanding any other provision of this section, the  
22 department and the landowner may agree on a cancellation  
23 valuation of the land. The agreed valuation shall serve as the  
24 cancellation valuation pursuant to Section 51283 or Section  
25 51283.4. The agreement shall be transmitted to the board or council  
26 considering the petition to cancel the contract.

27 (e) This section represents the exclusive administrative  
28 procedure for appealing a cancellation valuation calculated pursuant  
29 to this section. The Department of Conservation shall represent  
30 the interests of the state in the administrative and judicial remedies  
31 for challenging the determination of a cancellation valuation or  
32 cancellation fee.

33 *SEC. 2. Section 51283.5 of the Government Code is amended*  
34 *to read:*

35 51283.5. (a) The Legislature finds and declares that  
36 cancellation fees should be calculated in a timely manner and  
37 disputes over cancellation fees should be resolved before a city or  
38 county approves a tentative cancellation. However, the city or  
39 county may approve a tentative cancellation notwithstanding an

1 ~~assessor's formal review~~ *notification of an independent fee*  
2 *appraisal* or judicial challenge to the cancellation value or fee.

3 (b) If the valuation changes after the approval of a tentative  
4 cancellation, the certificate of tentative cancellation shall be  
5 amended to reflect the correct valuation and cancellation fee.

6 (c) If the landowner wishes to pay a cancellation fee when a  
7 ~~formal review has been requested~~ *an independent fee appraisal is*  
8 *pending*, he or she may pay the fee required in the current  
9 certificate of cancellation and provide security determined to be  
10 adequate by the Department of Conservation for 20 percent of the  
11 cancellation fee based on the assessor's valuation. The board or  
12 council shall hold the security and release it immediately upon full  
13 payment of the cancellation fee determined pursuant to Section  
14 51203.

15 (d) The city or county may approve a final cancellation  
16 notwithstanding a pending ~~formal review~~ *independent fee appraisal*  
17 or judicial challenge to the cancellation valuation or fee. The  
18 certificate of final cancellation shall include the following  
19 statements:

20 (1) That ~~formal review~~ *independent fee appraisal* or judicial  
21 challenge of the cancellation valuation or fee is pending.

22 (2) That the fee may be adjusted, based upon the outcome of  
23 ~~the review~~ *results of the independent fee appraisal* or challenge.

24 (3) The identity of the party who will be responsible for paying  
25 any additional fee or will receive any refund.

26 (4) The form and amount of security provided by the landowner  
27 or other responsible party and approved by the Department of  
28 Conservation.

29 (e) Upon resolution, the landowner or the party identified in the  
30 certificate shall either pay the balance owed to the county treasurer,  
31 or receive from the county treasurer or the controller any amount  
32 of overpayment, and shall also be entitled to the immediate release  
33 of any security.

34 (f) (1) If a party does not receive the notice required pursuant  
35 to Section 51203, 51283, 51283.4, or 51284, a judicial challenge  
36 to the cancellation valuation may be filed within three years of the  
37 latest of the applicable following events:

38 (A) The board or council certification of the fee pursuant to  
39 subdivision (b) of Section 51283, or for fees recomputed pursuant

1 to Section 51283.4, the execution of a certificate of cancellation  
2 under that section.

3 (B) The date of the assessor's determination pursuant to  
4 paragraph (3) of subdivision (b) of Section 51203.

5 (C) The service of notice to the Director of Conservation of the  
6 board or council's recorded certificate of final cancellation.

7 (2) If a party did receive the required notice pursuant to Section  
8 51203, 51283, 51283.4, or 51284, a judicial challenge to the  
9 cancellation valuation may be filed only after the party has  
10 exhausted his or her administrative remedies through the ~~formal~~  
11 *review independent fee appraisal* process specified in Section  
12 51203, and only within 180 days of the latest of the applicable  
13 following events:

14 (A) The board or council certification of the fee pursuant to  
15 subdivision (b) of Section 51283 or for fees recomputed pursuant  
16 to Section 51283.4, the execution of a certificate of cancellation  
17 under that section.

18 (B) The date of the assessor's determination pursuant to  
19 paragraph (3) of subdivision (b) of Section 51203.

20 (C) The service of notice to the Director of Conservation or the  
21 board or council's recorded certificate of final cancellation.

22 ~~SECTION 1. Section 51203 of the Government Code is~~  
23 ~~amended to read:~~

24 ~~51203. (a) The Department of Conservation shall obtain a fee~~  
25 ~~appraisal to determine the current fair market value of the land as~~  
26 ~~if it were free of the contractual restriction pursuant to Section~~  
27 ~~51283. The county assessor, upon request of the department or the~~  
28 ~~landowner, may provide information to the department to assist~~  
29 ~~in the determination of value.~~

30 ~~(b) Within 45 days of receiving the fee appraisal, if the~~  
31 ~~Department of Conservation or the landowner believes that the~~  
32 ~~current fair market valuation certified pursuant to subdivision (b)~~  
33 ~~of Section 51283 or Section 51283.4 is not accurate, the department~~  
34 ~~or the landowner may request formal review from the fee appraiser.~~  
35 ~~The department or the landowner shall submit to the fee appraiser~~  
36 ~~and the other party the reasons for believing the valuation is not~~  
37 ~~accurate and the additional information the requesting party~~  
38 ~~believes may substantiate a recalculation of the property valuation.~~

1     ~~(1) If no request is made within 45 days of receiving notice by~~  
2 ~~certified mail of the valuation, the fee appraiser's valuation shall~~  
3 ~~be used to calculate the fee.~~

4     ~~(2) Upon receiving a request for formal review, the fee appraiser~~  
5 ~~shall formally review the valuation if, based on the determination~~  
6 ~~of the fee appraiser, the information may have a material effect on~~  
7 ~~the valuation of the property. The fee appraiser shall notify the~~  
8 ~~department and the landowner that the formal review is being~~  
9 ~~undertaken and that information to aid the fee appraiser's review~~  
10 ~~shall be submitted within 30 days of the date of the notice to the~~  
11 ~~department and the landowner. Any information submitted to the~~  
12 ~~fee appraiser shall be served on the other party who shall have 30~~  
13 ~~days to respond to that information to the fee appraiser. If the~~  
14 ~~response to the fee appraiser contains new information, the party~~  
15 ~~receiving that response shall have 20 days to respond to the fee~~  
16 ~~appraiser as to the new information. All submittals and responses~~  
17 ~~to the fee appraiser shall be served on the other party by personal~~  
18 ~~service or an affidavit of mailing. The fee appraiser shall avoid ex~~  
19 ~~parte contacts during the formal review and shall report any~~  
20 ~~contacts to the department and the landowner at the same time the~~  
21 ~~review is complete. The fee appraiser shall complete the review~~  
22 ~~no later than 120 days of receiving the request.~~

23     ~~(3) At the conclusion of the formal review, the fee appraiser~~  
24 ~~shall either revise the cancellation valuation or determine that the~~  
25 ~~original cancellation valuation is accurate. The fee appraiser shall~~  
26 ~~send the revised valuation or notice of the determination that the~~  
27 ~~valuation is accurate to the department, the landowner, and the~~  
28 ~~board or council considering the petition to cancel the contract.~~  
29 ~~The fee appraiser shall include a brief narrative of what~~  
30 ~~consideration was given to the items of information and responses~~  
31 ~~directly relating to the cancellation value submitted by the~~  
32 ~~department and the landowner. The fee appraiser shall give no~~  
33 ~~consideration to a party's information or response that was not~~  
34 ~~served on the other party. If the fee appraiser denies a formal~~  
35 ~~review, a brief narrative shall be provided to the department and~~  
36 ~~the landowner indicating the basis for the denial, if requested.~~

37     ~~(e) For purposes of this section, the valuation date of any revised~~  
38 ~~valuation pursuant to formal review or following judicial challenge~~  
39 ~~shall remain the date of the fee appraiser's initial valuation, or his~~  
40 ~~or her initial recomputation pursuant to Section 51283.4. For~~

1 purposes of cancellation fee calculation in a tentative cancellation  
2 as provided in Section 51283, or in a recomputation for final  
3 cancellation as provided in Section 51283.4, a cancellation value  
4 shall be considered current for one year after its determination and  
5 certification by the fee appraiser.

6 (d) ~~Notwithstanding any other provision of this section, the~~  
7 ~~department and the landowner may agree on a cancellation~~  
8 ~~valuation of the land. The agreed valuation shall serve as the~~  
9 ~~cancellation valuation pursuant to Section 51283 or Section~~  
10 ~~51283.4. The agreement shall be transmitted to the board or council~~  
11 ~~considering the petition to cancel the contract.~~

12 (e) ~~This section represents the exclusive administrative~~  
13 ~~procedure for appealing a cancellation valuation calculated pursuant~~  
14 ~~to this section. The Department of Conservation shall represent~~  
15 ~~the interests of the state in the administrative and judicial remedies~~  
16 ~~for challenging the determination of a cancellation valuation or~~  
17 ~~cancellation fee.~~